

Meeting of 1997-8-12 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
AUGUST 12, 1997 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:  
Presiding Gil Schumpert, City Manager  
Felix Cruz, City Attorney  
Brenda Smith, City Clerk

The meeting was called to order at 6:10 p.m. by Mayor Marley. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State Law.

ROLL CALL

PRESENT: Jody Maples, Ward One  
Richard Williams, Ward Two  
Jeff Sadler, Ward Three  
John Purcell, Ward Four  
Robert Shanklin, Ward Five  
Charles Beller, Ward Six  
Carol Green, Ward Seven  
Randy Warren, Ward Eight

ABSENT: None.

CONSIDER MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF JULY 22, AND SPECIAL MEETINGS OF JULY 29 AND AUGUST 4, 1997.

MOVED by Purcell, SECOND by Sadler, for approval of the Minutes. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

LT COL OConnell requested Council consider a revision to the charitable car wash ordinance at the next meeting. He explained the current regulation of one car wash per business each 90 days and the impact this has on Fort Sill personnel desiring to have fund raising car washes with their Coop partners. OConnell said eleven battalion commanders agreed this should be brought before Council for revision and suggested each unit on Fort Sill be limited to one car wash every 30 days.

Purcell said he had asked the City Attorney to prepare a revision to the ordinance for the next meeting. Mayor Marley said the ordinance was originally enacted due to commercial car wash operators objecting to loss of business as a result of charitable car washes. He said the item would be on the next agenda.

UNFINISHED BUSINESS:

1. Hold a public hearing and adopt a resolution declaring the mobile home structure at 2310 SW Georgia Avenue to be dilapidated and detrimental to the health and safety of the community. Authorize the expenditure of CDBG Funds, if necessary, to remove this structure. EXHIBITS: RESOLUTION NO. 97-96; REPORTS FROM FIRE MARSHAL AND HOUSING INSPECTOR AND PHOTOGRAPHS (ON FILE IN CODE ADMINISTRATION).

Dan Tucker, Code Administration Director, said this item was tabled at the July 22 meeting at the request of Mrs. Barbee, owner of the lot in question. Mrs. Barbee has been unable to contact the owner of the mobile home. Concrete blocks and vehicles have been removed from the lot. Video was shown of the property. Tucker said it remains a hazard, is unsecured, untied, and has no permit. The owner will have 15 days from Council action to remove it on his own without the City removing it or charging.

PUBLIC HEARING OPENED. No one appeared to speak.  
PUBLIC HEARING CLOSED.

MOVED by Green, SECOND by Shanklin, to adopt Resolution No. 97-96 declaring the mobile home structure at 2310 SW Georgia to be dilapidated and detrimental to the health and safety of the community and authorizing expenditure of CDBG funds, if necessary, to remove the structure. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-96

A RESOLUTION DETERMINING A CERTAIN MOBILE HOME STRUCTURE TO BE DILAPIDATED AND DETRIMENTAL TO THE HEALTH, BENEFIT, AND WELFARE OF THE COMMUNITY, AND ORDERING THE DESTRUCTION AND REMOVAL OF SAID DILAPIDATED STRUCTURE.

BUSINESS ITEMS:

2. Consider suspending Rule 5E of the Council Rules of Procedure, and if suspended, consider an application for a Certificate of Public Convenience and Necessity for Presidential Limousines of Texas, Inc. to operate taxi cabs in Lawton. EXHIBITS: APPLICATION FOR TAXICAB CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; APPLICABLE PROVISIONS OF THE CITY CODE; NOTICE OF PUBLIC HEARING.

MOVED by Purcell, SECOND by Beller, to suspend Rule 5E of the Council Rules for purposes of considering the certificate of public convenience and necessity. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: Green. MOTION CARRIED.

Beller said after the last meeting where Council did not approve the item for Presidential Limousines, he received several calls, as had other members, and that the item should be re-examined in light of new facts. He said he was concerned about having a way to serve the handicapped persons; at the present time, there is not service available to them unless they qualify for assistance from one of the non-profit organizations. Beller said there are a number of handicapped persons who do not qualify for that service due to their income. He said the ordinance limits the number of permits and that he had concern on whether Council should limit the number of permit if there are companies operating today with 30 to 50 permits that are not being used. Beller said if they are not being used, perhaps another company should be allowed to use them.

Beller asked if the requirements had been met as far as the public hearing for tonight. Cruz said newspaper publication is not required, but taxicab owners must be notified and that has been done. Cruz said the item does not address a public hearing but the commentary suggests that comments be solicited from the audience. Council agreed to receive comment.

Shanklin said he thought local companies should be given the opportunity to improve. He said Presidential looks good, although negative remarks have been received from Wichita Falls and West Texas, however, that could be true of anyone. Shanklin suggested Council hear how local companies suggest to improve their equipment and add handicapped accessible equipment. He said he did not understand why MedTrans could not pick up anyone in need of that service, and if the income exceeds the level, the person could pay a fee but should not be denied the service since their taxes support it for others.

Purcell said he also asked that this be returned due to the number of calls he received about the availability of handicapped accessible taxis for those not qualified to use MedTrans. He said people had also asked about non-smoking taxis. Purcell suggested those two items be addressed during audience participation.

Schumpert said MedTrans is funded through a HUD program provided through CDBG for low and moderate income and that is the reason it is limited in that manner.

Beller said the ordinance itself should be examined as far as the criteria on the number of taxis in operation. He said he was concerned about the number of permits that have already been issued that are not being used. Beller said one holder had 50-60 permits that are not being used, and another had 30-40. He said if they are not being used, they should come back to the City because it seems they are holding a monopoly.

Mayor Marley opened a public hearing to receive comments from the audience.

Steve Newcombe, attorney representing Yellow, Radio, Busy Bee, Checker and Safety Cabs, said Mr. Thompson is the owner or president of the corporations that own these cabs and that Thompson is very much opposed to the certificate being solicited by the entity from Wichita Falls. He said the reason for the opposition is that there is not a need for additional taxi service. Newcombe said the reason the permits are not being used is that troop strength at Fort Sill is down considerably and there is no economic need for people to pay tariff to Mr. Thompson to operate a taxi when there is no one to pick up.

Newcombe said this is the free enterprise system at its best; there are 206 permits but only 125 are operating. He said Thompson went into business based on the ordinance in effect now, which provides for certificate of public

need and convenience with specific criteria to determine that. Newcombe said the ordinance provides the Council shall take into consideration the number of taxis currently in operation. He said when a statute says "shall", that is a mandatory provision, and in this case there are permits that have been issued that are not even being used for economic reasons; certainly there is no need for additional service based on that criteria.

Newcombe said he understood that MedTrans and Great Plains Improvement have vehicles to transport the handicapped. He said his clients companies pick up handicapped people all the time, put their wheel chairs in the trunk and transport them, so that need is being met, although not possibly 100% and that is likely true for each community. Newcombe said additional taxis would increase the traffic flow, which could be potentially hazardous. He said he did not know the character of the applicant, but felt it was incumbent upon the Council to know what other cities he had operated in and what similar promises he may have made. Newcombe said it would not be fair to existing companies who have investments to change the rules.

Newcombe said the taxis operate to transport people from one point to another in a safe fashion, and if that is not done, the person has a remedy in district court. He said he had defended Mr. Thompson a hundred times in law suits dealing with car wrecks, but that is the purpose of the taxis. Newcombe said those things happen when businesses are in operation.

Beller asked if there are any ADA requirements on taxis. Newcombe said he had not been notified of any requirements and that no complaints had been received.

Purcell said he disagreed that existing transportation was adequate to meet the public need. He asked how many vehicles that belong to Newcombes client are readily accessible to handicapped persons or if they have any non-smoking taxis. Newcombe said he was not sure but they would comply with a regulation regarding smoking.

Terry Jones, Peoples Cab Company, said they have 23 slots and only 14 cabs running now. He said the business is not out there. Jones said the taxi regulations should be updated and that each member had received a copy of their recommendations for updating. He suggested none of the vehicles be over ten years old, that outside body damage not exceed \$600, that there could be no tear in the seats which could cause damage to clothing of clients, that all taxis have top lights and be on during darkness, that there be signs and decals for identification, and that each company have a handicapped accessible vehicle with hydraulic lift capabilities. He suggested such regulations be in effect by April 30, 1998.

Jones said his company has three smoke free taxis. He said they do not have a hydraulic lift on any vehicles for handicapped access, but they do have vans and transport handicapped persons. Jones said they have looked into the possibility of obtaining a hydraulic lift.

Shanklin asked if they have a ramp. Jones said yes, but not a hydraulic lift. Green asked when they planned to have a lift. Jones said by April 30, 1998.

Shanklin said he felt the cabs should look alike and that it would present a better image to those visiting Lawton. He suggested local companies be given five or six months to upgrade and then reconsider the application of Presidential. Shanklin suggested a committee be appointed to meet with local owners to revise regulations. Beller said the ordinance requiring the Council to look at numbers should be examined.

Purcell asked if there was a limit on the number of permits that could be given out. Cruz said no, companies request the number of permits they desire. Purcell asked if Council could issue 50 more permits. Cruz said yes, if the Council is convinced there is a need for additional taxi service; one of the criteria is the number of taxis in operation, being 130, and 210 certificates issued, so that could be a guide. Cruz said another criteria is the adequacy to meet the public need, and that could be the handicapped access. Cruz said the determination is not whether it looks nice, but whether additional taxis are needed, and if the answer is yes, the Council would issue it.

Green said she thought everyone knew there was not a need for more taxis, although she would like the appearance improved. She suggested the committee be appointed.

Jody Wade, Presidential Limousines, said all businesses face competition. He said his company had done research on Lawton and what they could do to provide transportation. Wade said the ordinance addresses adequacy and quality, and one way to do that is whether a person would feel comfortable having their mother transported by a taxi. He said the federal disabilities act requires anyone for hire that transports a handicapped individual to have that vehicle equipped with a handicapped lift that is used on a hydraulic basis and the roof has to be raised no less than 12 inches. Wade said if companies are presently hauling handicapped individuals on any other basis, they are in violation of the law. He requested approval of his application and said the City could revoke the permits if the company does not meet the standards set forth.

Warren asked if there had been any instances where Presidential received approval to operate in a town and in two or three years decided it was not a good idea and left. Wade said if Warren was referring to the City of Lubbock,

they did make an application but never went before the Council and withdrew the application, so the application was never voted on and it was withdrawn.

Warren said the letter from Presidential talks about a market study and he asked what that consisted of. Wade said the permits in operation that are issued but not being used; the market study defines the population and the international taxi association shows Lawton should have more taxis. Wade said the population has not decreased to the point for 100 taxis to disappear.

Warren said the end of the letter from Presidential states the City has a growing university and an air force base. He said he hoped that was an error in typing and not an error in judgment because there is a big difference between an army base and an air force base. Wade said that was an error in typing, and the records at the university show an increase.

Williams asked Wade if he was aware that the City was seriously considering establishing a transit system. Wade said yes.

Shanklin asked if the Council had the authority to require that vehicles be a certain age or painted the same. Cruz said that can be added to the ordinance, and that previous ordinances required inspections but that portion had been deleted.

Wade said his firm would be bringing jobs to Lawton and that taxis were not the only area they planned to have. He said he did not want to put other companies out of business and that there was room for everyone, and competition increases quality. Wade said their airport shuttle service, charter bus service, limousines and handicapped accessible vehicles would be a benefit to Lawton.

Archer McFall, Unlimited Limousine Service, said it is apparent the City is not inspecting the taxis very well. He said he operates a shuttle and a limousine service currently, and their vehicles are all smoke free.

Mayor Marley said the public hearing would close at this time.

Williams said the needs assessment provided over the last ten years has shown a deficiency in the area of transportation. He said he hoped the transit system would come about and that the ordinance could be amended for taxis to meet a standard. Williams said he felt there was a need for smoke free taxis, and service for the handicapped.

MOVED by Williams, SECOND by Maples, to approve the application for ten (10) vehicles.

Beller said he felt the ordinance should be changed first. Maples said the Council has considered the adequacy of what is being provided right now, and that is the main issue. Maples said one company cannot get a handicapped accessible vehicle until April, but this company can get one right now. Beller asked if Council would be circumventing the intent of the ordinance if it said bring them in regardless of the numbers. Cruz said no, Council must consider the adequacy and number of taxis currently operating, and Council can determine if more are needed. Beller asked if the issue of the numbers was the only criteria and Cruz said no.

Purcell said he would not argue on the basis of the number of taxis in operation, but that several of the phone calls reflected that many people might use taxis if they were in better condition. He said some are very good, although public input was that some are not.

Warren said he did not doubt Presidential's word as to what they would provide, but that there was not a way to require it. He suggested the application be denied and the ordinance amended. Cruz said the application must be considered in light of the existing ordinance.

Shanklin said he would like to make a substitute motion that the Mayor appoint a committee of three or four members to meet with the taxi company ownerships and shuttle services within six weeks time to allow Wade to remain a viable candidate. He said if the existing companies do not feel they can meet adequate criteria, he would favor bringing in Presidential. Shanklin said local companies should be given an opportunity to upgrade and that the City has not been inspecting them. Green said she would second the substitute motion.

Mayor Marley said the issue at this time is whether to issue the permit or not, and that the motion by Shanklin would be considered following that action.

SUBSTITUTE MOTION by Shanklin, SECOND by Green, to deny the application and set up a committee to look at the current ordinance. AYE: Shanklin, Green, Warren. NAY: Maples, Williams, Sadler, Purcell, Beller. SUBSTITUTE MOTION FAILED.

Mayor Marley called for a vote on the original motion to approve the certificate to Presidential and allow for ten

taxis. Motion was restated during original roll call as follows:

MOVED by Williams, SECOND by Maples, to allow Presidential Limousine Service of Texas, Inc., for Council to approve ten permits of which two of those permits would be handicapped accessible vehicles for our community. AYE: Williams, Sadler, Purcell, Beller, Maples. NAY: Green, Warren. ABSTAIN: Shanklin. MOTION CARRIED.

Mayor Marley requested a vote on the motion Shanklin had offered to set up a committee to look at the ordinance.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

3. Hold a public hearing and consider an ordinance closing a portion of street right-of-way adjacent to 207 NE Angus Street. EXHIBITS: APPLICATION; 300' NOTIFICATION MAP; 11/15/96 LETTER TO MR. FERNANDEZ; PORTION OF PLAT; SURVEY; LETTER FROM DON SMITH ON EASEMENT; ORDINANCE NO. 97-37.

Bob Bigham, City Planner, said the application was submitted by Don Smith, attorney representing Luis Fernandez. He said the Pioneer Park plat shows an area reserved for future right of way; in 1971, LMAPC approved a series of lot splits which separated the reserved street right of ways and were attached to platted lots; at that time, houses were built on the lots; street has never been opened. Utility companies and property owners within 300 feet were notified; no negatives responses were received. ARKLA Gas indicated there is a gas main in the vicinity. Public Works requested a five foot drainage and utility easement, which should also satisfy the requirements of ARKLA Gas. Letter was provided by Smith stating that prior to vacation, they will provide the City with a five foot drainage and utility easement to provide for a continuous utility easement in Pioneer Park. Staff recommends approval of the ordinance.

PUBLIC HEARING OPENED. No one appeared to speak.  
PUBLIC HEARING CLOSED.

MOVED by Beller, SECOND by Maples, to approve Ordinance No. 97-37, read the title only, and waive the reading of the ordinance.

(Title read by Clerk) ORDINANCE NO. 97-37

AN ORDINANCE CLOSING A TWENTY-FIVE FEET (25) BY ONE HUNDRED FEET (100) PORTION OF THE STREET RIGHT-OF-WAY LOCATED ADJACENT TO 207 NE ANGUS, PIONEER PARK ADDITION, PART 1, TO THE CITY OF LAWTON, COMANCHE COUNTY, OKLAHOMA, AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Sadler. NAY: None. OUT: Williams. MOTION CARRIED.

Mayor Marley said Items 5, 7, 9 and 13 would be considered at this time.

5. Consider approving Lawton Chamber of Commerce Fiscal Year 1997-98 Hotel/Motel Budget for expenditure of funds. EXHIBITS: BUDGET SUMMARY; PROPOSED BUDGET, ANNUAL REPORT AND EXPENSE SUMMARY (ON FILE IN CITY CLERK'S OFFICE).

Bob Payton, Chairman of Lawton Chamber of Commerce and Industry, said they appreciated being given the opportunity to serve the community using hotel/motel tax funds for tourism and economic development. He said many successes were achieved last year; in convention and tourism, there was a 27% increase in visitors, and an increase in hotel/motel tax revenue. Payton said 890 jobs were created last year; 350 of them are already on line. Jobs created last year will add over \$15 million in payroll to the area. He said the increase in tourism resulted in an increase of \$20,000 for the hotel/motel budget total, for \$320,000 altogether.

MOVED by Shanklin, SECOND by Sadler, to approve the budget.

Purcell said he met with Mark McCord and Scott Hatch regarding keeping the hotel/motel tax revenue in a separate bank account. He said he supported the budget as proposed. Purcell asked that the motion be amended to keep the hotel/motel tax revenue in a separate bank account and not co-mingle.

Mayor Marley asked Shanklin if he accepted the amendment. Shanklin said he would like the Chamber to respond and that he had discussed that issue ten years ago. Shanklin said the budget breaks down the expenditures and the overall Chamber budget is much greater than the hotel/motel tax revenue. Shanklin said if the Chamber agreed, he would accept the amendment.

Payton said all of their accounting procedures are handled by Scott Hatch and his CPA firm. He said if this is an issue for the Council, they would separate the funds, although a total accounting is provided as to where the funds come from and what they are spent for in the current system.

Beller asked what would be accomplished by such a separation. Purcell said the report for the period ending June 30, 1997, shows \$295,000 from the City through hotel/motel tax revenue, and \$3,000 additional, but the expenditures were \$310,000. He said the City provided \$298,000, and the remainder was from the Chamber, so the reports are difficult to look at. Purcell said the City is concerned only with the tax revenue, not how the Chamber spends Chamber dollars, and in most cases, you do not co-mingle funds. He said it would be a little more work on the part of the Chamber but it would be much cleaner. Purcell said there was no indication of a problem, but the reports would be much cleaner.

Payton said there was a list of items the Chamber could charge to hotel/motel tax; some things cannot be charged to that. He said they did more than the money they received, and the Chamber members pitched in the rest and did not come back to the City for it. Payton said if a read out is needed for only the \$298,000, they can provide that. Beller asked if the \$12,052 was made up by the Chamber membership. Payton said yes, they know the hotel/motel tax will provide only so much money, but they have a job to do and Chamber funds pay for the rest of it from their membership base. Beller asked if the Chamber would prefer to maintain one account. Payton said it would be easier for their accountant but they would do as the Council desired.

SUBSTITUTE MOTION by Purcell, SECOND by Warren, to approve the Lawton Chamber of Commerce and Industry 1997-98 hotel/motel tax budget for \$320,000, and they keep it in a separate bank account. AYE: Warren, Williams, Sadler, Purcell. NAY: Shanklin, Beller, Green, Maples. TIE VOTE. MAYOR VOTED NO. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Beller, Green, Maples, Williams, Sadler, Purcell, Shanklin. NAY: Warren. MOTION CARRIED.

7. Consider adopting an ordinance amending Section 20-101, Lawton City Code, 1995, permitting certain obstructions on easements, and declaring an emergency. EXHIBITS: ORDINANCE NO. 97- \_\_.

Warren said he requested this item because he thought the land owners should be able to use the land they own, and that he felt the ordinance should be changed back to the way it was three years ago. He said it was changed because a citizen would come before Council with an out building that had been torn up during repairs in an alley possibly and the Council was having trouble telling the citizen that this can happen when they build in an easement. Warren said Council now denies citizens the use of the easement for anything other than a fence or growing grass. He said allowing citizens to build a bench, plant a bush, hedge or tree, does not take away from the City or utility companies abilities to service their lines or wires because the proposed ordinance states plainly that any buildings, plantings, whatever it may be in the easement, it is done at your own risk and you live with the consequences.

Warren said he staff and utility companies want there to be rights of way wherever there are easements, but the homeowner is expected to mow it. He said the ordinance as written seems to be totally unenforceable because there was no way the City could keep up with people planting shrubs, hedges, building fences that may not meet requirements, although the definition of fencing is not clear. Warren said the way it was before was much clearer for the residents; otherwise, they should have the ability to use their own property.

Warren said the City does not have the manpower to police this ordinance, and that every convenience store on every corner has flowers and bushes planted in the easements. He said if it is done, there would be an appearance of selective enforcement.

Mayor Marley said many people have sprinkler systems in their yards on the curb lines, which are the City easement, and they are torn out when repairs are made and the City does not put them back in.

Beller said if the homeowner is expected to maintain the easement as far as weed abatement, etc., he should be able to use the easement, knowing that if there is a need to access the area, it would be the homeowners responsibility to remove it.

Shanklin said in the addition south of the Country Club, there are fences and buildings in the easement, and it would be impossible for the City to mow. He said there are problems at night anyway whether the easement is clean or obstructed because if it is an emergency and we have to get in a back yard, we have to wake up the resident, and it is rather dangerous. Shanklin said residents would have to understand that they would be required to pay for anything the crews tear up to be able to maintain the utilities.

Schumpert said people want to be provided with utilities and have immediate repairs if needed but allow access only for installation. He said for the privilege of having those services, there is a need for a certain amount of clean, clear right of way to allow equipment in to provide service. Schumpert said there is not a way to service or maintain utilities without that access. He said the City is not the only entity involved and that letters had been sent in by PSO and ARKLA expressing concern in having access to their facilities. Schumpert said when events occur

such as a recent wind storm, it would take longer to repair utilities when obstructions are present. He said this would not apply only to the homeowner who has built over his easement, but to other members of the community also.

Schumpert said he personally would not build over a gas or electrical line due to consequences that could be involved. He said the cable and telephone companies have their lines cut in the easements now, and there would be serious problems cutting into a gas line. Schumpert said for the expectation of reasonable service, the companies must be granted reasonable access to the property.

Schumpert said aside from the safety issue and delaying service to the community, the last issue is that we would tell the homeowner to sign a paper saying that if you build over the easement, the utility company can bulldoze it; the homeowner agrees and signs, but then sells the property. He said by the time the property has changed hands a number of times, and about the fourth owner down, the City or utility company bulldozes the structure and the homeowner will say they did not know, it was not in the deed or covenant, and the utility company involved tore up their property. He said Councils tend to pay for those damages.

Purcell said a similar situation came up two or three years ago when someone built something in an easement and an ordinance was passed saying there will be no more, but everyone in existence now will be grand fathered in. He said the issue is now back and that he agreed people should be able to use their property but that someone with a building with a concrete slab on an easement gets bulldozed, they will want reimbursement. Purcell said he could not support this.

Shanklin said we are talking about a handful of people who have erred by building onto the easement. He said those can be identified and the obstructions noted on the deed. Shanklin said you could not get down the easements in the area south of the Country Club with a tank and that he did not know how that would be addressed in the I & I due to the cross fencing. Mayor Marley agreed there are not that many, but we do not want to have them everywhere either. Mayor Marley said the building permit should show where people can build.

Beller said there are two or three homes to the east of one of the homes that prompted this that are sitting in the same easement and we are telling them they are grand fathered in but the other one has to tear his down. He said he did not agree with that.

Warren said even if this is passed, the issue will come up again because we are discussing individuals rights and property, which is where the original theory lies. He said he understood State law to say that you cannot stop someone from building on an easement but that you cannot preclude the utility company from coming in there and tearing something down.

MOVED by Warren, SECOND by Sadler, to adopt Ordinance No. 97-38, waive the reading, read the title only.

Shanklin suggested the language be cleaned up or that provision be made that if you do build in the easement, you will be told by City staff that it is your problem and it might have to be torn down. Schumpert said that language would not work out well. Council asked that public comment be received and Mayor Marley said he would open a public hearing to receive comment.

Bob Milner, Public Service Company, said the City Manager did a good job of covering PSOs concerns and that they had submitted a letter from their legal counsel. He said he appreciated property owners rights but felt they did not outweigh the safety of their employees or those of any other franchise holder, or the public. Milner said you do not want a hot electrical line across a metal shed, pool, or so forth. He said current obstructions delayed the restoration efforts last May after the wind storm. Milner said they had a problem with the language of the ordinance where it would allow any owner to build into the easement as they desire and guarantees the rights of the City but does not mention the franchisees rights. Milner said PSO derives its authority to operate in the City through the franchise granted by the voters of the City of Lawton. He asked that the existing ordinance be maintained and said if it is the Councils desire to make changes, they would like to meet with them to develop language to meet the needs of their company also.

SUBSTITUTE MOTION by Beller, SECOND by Shanklin, to table this item for two weeks and in the interim the City Manager and the utility companies can give an indication of a liveable ordinance. AYE: Green, Maples, Sadler, Purcell, Shanklin, Beller. NAY: Warren. ABSTAIN: Williams. SUBSTITUTE MOTION CARRIED.

9. Consider approving a cablevision operating permit for Lawton Cablevision, Inc. EXHIBITS: LETTER DATED MAY 19, 1997; OPERATING PERMIT.

Schumpert said the term is for one year with the rate at 5%; recommendation is for approval. Purcell asked if there is a reason it cannot be for a term of two years since it is a non-exclusive permit. Cruz said State law requires permits be issued on an annual basis. Williams asked if anything other than a permit could be issued. Cruz said it could be a franchise, but that would be a different issue.

MOVED by Maples, SECOND by Beller, to approve the permit. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

13. Consider action on the management of the Prairie Dogs in Elmer Thomas Park. EXHIBITS: PRAIRIE DOG MANAGEMENT PLAN WITH SUPPORT INFORMATION.

Mayor Marley said there has been considerable controversy since the meeting of the Parks & Recreation Commission to decide how to handle the problem at Elmer Thomas Park, and that truly there is a problem with the numbers of prairie dogs.

Shanklin said he and Warren requested the item and that he had received calls from people who thought they might have an alternate solution. He said the prairie dog is a rat or squirrel with a number of different species, and if a person had several two pound rats in their home, they would not want to capture them as much as remove them.

Mayor Marley said information had been received from the OSU Veterinary School and the Department of Health showing these animals are carriers of Bubonic Plague. People do not have to be bitten by one of the animals; fleas from the animals can pick that up and transfer it to an individual. This information was provided to the television and newspaper but not published, and there is a serious problem with that. He said the animals are cute and that he did not know of anyone having been bitten, but there are serious medical implications that everyone should know about.

Schumpert said information from a local veterinarian was that there appears to be a fad of adopting the animals as home pets, and that vets are encouraging against that due to the plague situation and because the animal is territorial, aggressive, and bites without provocation. He said he understood adoption was being encouraged on the InterNet but the animals cannot be domesticated and there is only limited success in vaccination against rabies. Schumpert said farmers and ranchers discourage them in their areas due to losses in livestock.

Dick Huck, Parks & Recreation Director, said they looked at how the prairie dogs fit into the overall park plan and it was felt that they should be maintained in Elmer Thomas Park under certain limitations, with the objective being to reduce the numbers. He said he stopped counting at about 1,000 animals. Huck said the Parks & Recreation Commission looked at three goals; reducing the number of prairie dogs, having two sites where the prairie dogs could maintain their habitat, and accomplish this by February 1998 when pups could be born; and also to protect the burrowing owl that is in Elmer Thomas Park.

Huck said several alternatives were reviewed to accomplish these goals, obviously preferring to be able to relocate the animals. He said the Commission recommended trying to find relocation sites, and if that were not possible, to use euthanasia as the alternative. Huck said since that meeting, numerous calls were received from agencies around the state, and outside the state, wanting to obtain certain numbers of prairie dogs. He said staff will help them accomplish that. A call was received last Monday from the Department of Wildlife stating they would accept all the excess dogs if staff would assist in the capture. Staff recommendation is to proceed with the Oklahoma Department of Wildlife in trying to reduce the numbers of prairie dogs in Elmer Thomas Park by capture and relocation to approved sites identified by the Oklahoma Department of Wildlife.

Schumpert asked if the City would have to build the traps, buy the traps, or transport the animals. Huck said the Oklahoma Wildlife Department will furnish the traps and pick them up; staff will have to build a holding area and if they cannot come on a given day, staff would have to run the traps and put them in a holding area. Huck said water injection would allow for quicker capture. Staff has no experience in use of live traps and the Wildlife Department will share their experience, but some water injection may be required to have this done by February 1998. Schumpert asked if the City's cost for this process would be more or less than other methods. Huck said cost of relocation is estimated at \$3,500 to \$4,000 for the manpower involved. Huck said once the numbers have been reduced to a manageable level, this will be an annual requirement. He said private agencies have taken prairie dogs in past years in the spring and moved them to other sites.

Shanklin said he felt there were many more than 1,000 prairie dogs and Huck agreed. Shanklin asked if only one litter was born per year. Huck said yes, with three to five pups on the average and survival rate is very good in Elmer Thomas Park since it is a protected area.

Green asked clarification on the costs. Huck said one estimate was for staff to move them and the other was for the State to assist. Green asked the cheapest method. Huck said euthanasia.

Mayor Marley said another problem is people in other places are capturing prairie dogs and selling them in foreign countries as pets, which becomes a serious problem. He said the new plan calls for them to be relocated and the State plans to open prairie dog towns throughout Oklahoma, which is the reason the Wildlife Department is becoming involved.



Huck said there would still be times when euthanasia must take place due to the location of the animals by the museum, auditorium and jogging trails, where we cannot just move them.

Purcell asked if the plan was to remove all of them or leave two groups of 50 each. Huck said recommendation was to maintain two areas of 50 each, one at 6th Street and the other by the lake. Purcell asked if the animals would have to be captured each year or euthanized and Huck said yes.

Warren said he did not want to euthanize the prairie dogs, but felt all of them should be moved due to the health concerns and liability to the City.

Maples said they are tearing up the parks and going across the street to the yards of people across Ferris. She said the City will have to go through this every year unless something is done.

MOVED by Maples, SECOND by Warren, to adopt staffs recommended Council action to approve the request for the Oklahoma Department of Wildlife to relocate each and every one of the prairie dogs located out at Elmer Thomas Park to state approved sites in Oklahoma.

SUBSTITUTE MOTION by Williams, SECOND by Shanklin, to implement the staff recommendation as far as the moving but also adopt the two location at the park where we can keep manageable numbers at those two locations. AYE: Williams, Sadler, Shanklin. NAY: Maples, Purcell, Beller, Green, Warren. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Purcell, Beller, Green, Warren, Maples. NAY: Williams, Sadler, Shanklin. MOTION CARRIED.

The Mayor and Council recessed at 8:00 p.m. and reconvened at 8:10 p.m. with roll call reflecting all members present.

4. Hold a public hearing and consider an ordinance amending Section 18-570, Chapter 18, Lawton City Code, 1995, adding public or private correctional facility to the general description of Public Facilities District and Section 18-571, Chapter 18, Lawton City Code, 1995, as amended by Ordinance No. 95-20, adding public or private correctional facilities as a permitted use in the Public Facilities District. EXHIBITS: EXCERPT OF THE P-F DISTRICT REGULATIONS; ORDINANCE NO. 97- 38; LMAPC MINUTES (ON FILE IN PLANNING DEPARTMENT).

Bigham said the sections being considered for amendment are the general purpose of the public facility zoning classification where public or private correctional facilities are being added, and adding as a permitted activity in a public facility zone the public or private correctional facilities. LMAPC on July 23, 1997, held a public hearing and recommended approval of the ordinance. He said the public facilities district is intended to accommodate certain governmental and institutional uses, and the ordinance proposed clarifies that correctional facilities are intended to go in the public facilities zoning classification.

PUBLIC HEARING OPENED. No one appeared to speak.  
PUBLIC HEARING CLOSED.

MOVED by Beller, SECOND by Williams, to adopt Ordinance No. 97-38, waive reading of the ordinance, reading only the title.

(Title read by Clerk) ORDINANCE NO. 97-38  
AN ORDINANCE RELATING TO PLANNING AND ZONING AMENDING SECTION 18-570, CHAPTER 18, LAWTON CITY CODE, 1995, ADDING PUBLIC OR PRIVATE CORRECTIONAL FACILITIES TO THE GENERAL DESCRIPTION OF THE P-F (PUBLIC FACILITIES DISTRICT) ZONING CLASSIFICATION; AMENDING SECTION 18-571, CHAPTER 18, LAWTON CITY CODE, 1995, AS AMENDED BY ORDINANCE NO. 95-20 ADDING PUBLIC OR PRIVATE CORRECTIONAL FACILITIES AS A PERMITTED USE IN A PUBLIC FACILITY ZONING CLASSIFICATION; AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

6. Consider adopting an ordinance amending Chapter 15, Lawton City Code, 1995, modifying the administrative weed abatement procedures, enacting an additional provision for weed abatement, and declaring an emergency. EXHIBITS: ORDINANCE NO. 97- 39.

Maples said she requested the ordinance due to the number of high weeds and grass complaints and the cost to the City to abate the nuisances. She said the City cuts the weeds to remove the nuisance and places a lien on the property, but payment goes to the ad valorem taxes. Maples said she felt the owner or resident should be fined for allowing the property to get to that condition to begin with.

MOVED by Maples, SECOND by Beller, to adopt Ordinance No. 97-39 and declare an emergency; waive reading of the ordinance, reading only the title.

Shanklin said he thought the City filed on ad valorem the cost the City incurs while cleaning up the properties, and that he had tried to work with the State Legislature to get the money at the end of the year. He asked Cruz to respond. Cruz said the City files notice with the County Treasurer that we intend to file a lien on the property, and after 30 days, we actually file the lien on the tax rolls, so the money comes back later after the taxes are collected. Shanklin asked if it was ad valorem. Cruz said it is treated as ad valorem tax.

Schumpert said the other issue is that the County forecloses on properties and all the liens are removed, so whatever cost the City has incurred is gone. He said the State Legislature could assist in seeing that if the counties later sell the properties, the cities could recoup their costs. Currently if the property is accepted or taken over by the county, the city would lose whatever costs it had been out.

Shanklin asked if due process was not required for the individual homeowner, and if this is changing that arrangement, or the way the mowings are handled after the City has done it once. Cruz said the statute and the present code, once an administrative order has been issued, the City can summarily abate the nuisance any time within the next six months without further notice. Cruz said each time we do the mowing and cleaning, we file the lien for ad valorem tax. Shanklin asked if we have to wait 30 days after we determine the location and send the notice. Cruz said no, it is ten days; it was previously 30 days, but the process was refined to ten days.

Schumpert said the ordinance states ten days, but the contract with the firm that does the mowing states within three days once the work order is issued. Shanklin asked if it takes 30 days to get to that point.

Dan Tucker, Code Administration, said previously we would send the owner identified on the Treasurers records a ten day notice. If no response was received, we posted the property and waited another ten days. If nothing happened, the notice was sent to the City crews, when they were doing the mowing, to abate the nuisance. Tucker said there is nothing to prohibit mailing the notice and posting the property at the same time, so we do not have to wait that additional time because it is all done at once on the notice.

Shanklin said it took several months to have the property at 1705 or 6 Bell abated and mowed. Tucker said the ten days starts from the point the notice is provided, not from the time the complaint is received. He said this week the number of high weeds and grass complaints has exceeded 2,000 for the year, compared to 1,600 total January through December last year. Tucker said the additional inspectors are now being hired. Shanklin said he thought the State Legislature was approached to allow each city to make its own rules on handling of this problem. Tucker said there are properties that are routinely mowed each year by staff, following the established process. The owner stops paying the costs when they exceed the value of the property and the City receives no reimbursement for the work done and they let the property go for taxes and these costs.

Maples said this ordinance will provide for immediate consequences for letting properties get into this shape instead of letting it go through all the steps.

Purcell asked if this is in addition to the abatement. Maples said yes, if staff has to go out there, the owner would be fined. Warren said the majority of this problem in his ward occurs in the easement where citizens have been denied the right to that property.

Maples asked if the media would publicize this to let the people know this would be in effect immediately, it would be very helpful.

(Title read by Clerk) ORDINANCE NO. 97-39

AN ORDINANCE RELATING TO NUISANCE, AMENDING CHAPTER 15, LAWTON CITY CODE, 1995, AMENDING DEFINITIONS, AMENDING PROVISIONS RELATING TO ADMINISTRATIVE ABATEMENT OF TRASH, WEEDS, LOW HANGING OR DEAD TREE LIMBS; ENACTING NEW PROVISIONS FOR OTHER MEANS OF TRASH, WEED, LOW HANGING OR DEAD TREE LIMB ABATEMENT; PROVIDING FOR PENALTY, CODIFICATION, SEVERABILITY, AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

8. Consider approving an ordinance relating to personnel amending Sections 17-102 A.60 and 17-138 A., Chapter 17, Lawton City Code, 1995, as amended by Ordinance 97-26, relating to definition of shift employee and shift pay differential and declaring an emergency. EXHIBITS: ORDINANCE NO. 97- 40.

Schumpert said the recent revision to the personnel rules contained a definition of shift employee and resulting shift differential pay. He said that language eliminated several employees in Public Works and Parks & Recreation

from receiving shift differential pay, and the amendment was not intended to produce that result. Schumpert asked that the ordinance be enacted to correct that situation.

MOVED by Green, SECOND by Shanklin, to approve Ordinance No. 97-40, relating to personnel, amending the sections, and relating to the definition of shift employees and shift pay differential, and declaring an emergency, waive reading of the ordinance, reading only the title.

(Title read by Clerk) ORDINANCE NO. 97-40

AN ORDINANCE RELATING TO PERSONNEL, AMENDING SECTIONS 17-102 A 60 AND 17-138 A, CHAPTER 17, LAWTON CITY CODE, 1995, AS AMENDED BY ORDINANCE NO. 97-26, RELATING TO DEFINITION OF SHIFT EMPLOYEE AND SHIFT PAY DIFFERENTIAL AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

10. Consider a resolution approving submission of an application to the Oklahoma Department of Transportation (ODOT) for Federal Aid Surface Transportation Program (STP) funding for the reconstruction of N.E. Flower Mound Rd. from Gore Blvd. to Cache Road. EXHIBITS: LETTER FROM ODOT (JUNE 27, 1997); MEMO FROM TRAFFIC ENGINEER - PROJECT ESTIMATES; RESOLUTION NO. 97- 97.

Purcell spoke in favor of Flower Mound Road as the selected project. Shanklin said 38th Street should be considered. Mayor Marley suggested the entire length of Flower Mound Road should have been considered.

Bob Bigham said maximum federal participation is \$750,000, and the City will have to provide 25% of the project, with a maximum ceiling on a project of \$1 million. He said in addition to the City's participation of 25%, the City will have to pay for the engineering services, utility relocation and right of way, and maintain the facility after completion. Bigham said staff met on July 17 to discuss what projects would be eligible and took into consideration the amount of funding available, the transportation program, the Public Works capital improvement program, safety issues, and how much project can be done with \$1 million. He said there are other projects on the priority list but the estimated costs are \$3 to \$6 million which would exceed the \$1 million ceiling. Other possible projects are Meadowbrook bridge or improving 37 signals at intersections. City's funding source is recommended as 1995 CIP.

Maples said the State offered to upgrade roads in the area of the prison and asked if this would have a bearing. Bigham said that funding will be from State Industrial Access funds which is separate.

MOVED by Purcell, SECOND by Williams, to approve Resolution No. 97-97 for submission of an application to the Oklahoma Department of Transportation for federal aid surface transportation program funding for the reconstruction of NE Flower Mound Road from Gore Boulevard to Cache Road.

Maples asked the remaining balance in the 1995 CIP. Schumpert said a little over \$3 million.

VOTE ON MOTION: AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-97

A RESOLUTION REQUESTING SURFACE TRANSPORTATION PROGRAM URBANIZED AREA (STP-UZAZ) PROJECT.

11. Consider a resolution authorizing the installation of traffic control devices at the specified location and identify a funding source. EXHIBITS: RESOLUTION NO. 97- 97; EXCERPTS FROM MINUTES OF TRAFFIC COMMISSION MEETING OF JULY 24, 1997.

Beller said this is for 67th and Compass and if anyone has driven there during rush hour and school traffic, the need for this is apparent. He said he appreciated the Traffic Commission recognizing this need before accidents happened.

MOVED by Beller, to adopt Resolution No. 97-98.

Schumpert asked if the funding source would be the 1995 CIP. Beller said if that is the recommendation and if funds are available. He asked what other possible funding sources were. Schumpert said Council Contingency. Beller said he had no problem with using 1995 CIP.

Maples asked if there was a turn bay at this location. Beller said it is for traffic coming out of Compass onto 67th. Mayor Marley said there will be additional traffic in that area due to plans for a Wal-Green Drug Store and a Post Office near 67th and Gore.

Shanklin suggested the funding be from the funds loaned to the airport. Beller said he had asked the City Manager what funding sources are available. Schumpert said Council Contingency.

Williams asked if this was primarily to be able to get the school buses out. Beller said not just that, but other traffic also. Beller said many people had input into this. Williams said police officers hold traffic at Lawton High to allow buses to proceed. Beller said traffic is most severe in the early mornings and afternoons, and the light could be traffic actuated. Beller asked the cost and response was \$60,000. Shanklin said \$190,000 was collected that was not accounted for in this budget for the month of June, and another \$100,000 from the water. He suggested funding be considered for the 9th Street railroad crossing, and said the funding source for this item does not have to be the 1995 CIP. Beller asked the City Manager to identify the funding for the traffic signal and Schumpert said 1995 CIP.

MOTION WAS SECONDED BY SHANKLIN.

Sadler said he was concerned that through streets be kept open for traffic flow. He said 67th Street is a nice, big street that moves traffic. Sadler said a similar condition existed at Briarwood and Cache Road where the average wait was five seconds, but with the light, the average wait is a minute or so. He said he thought it would make traffic worse as far as the wait time. Sadler said he was concerned about stopping traffic on a big, nice, wide, through street.

Beller said the need is there, the Traffic Commission has concurred and the funding is available. He said if 1995 CIP was not the desired funding source, the Council can direct the City Manager to identify the funding.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green. NAY: Warren, Maples, Williams, Sadler. TIE VOTE. MAYOR VOTED NO. MOTION FAILED.

12. Consider Ordinance 97-31 and Resolution 97-80 addressing implementation of engineering inspection fees and take appropriate action. EXHIBITS: ORDINANCE NO. 97-31 & RESOLUTION 97-31; LETTER FROM PLANNING & SPECIAL STUDIES DATED JULY 29, 1997.

Purcell said he requested the item due to calls he had received. He said he understood there would be a fee on putting in public works improvements on new land, and the developer would provide an estimate of the cost. Purcell said he had no problem with the ordinance and fee schedule as adopted, but there was a problem with the implementation. He said what brought this up initially was the grand fathering in; in this case there was some work done, dirt moved, etc. and that he thought anything that had already been started on a development would be grand fathered in and the fees would not be imposed but found that was not exactly true.

Purcell said Mr. Ledford had submitted a letter, and apparently the City Engineers office had given an example on a project that would cost \$100,000 in a subdivision. He said the example shows the work broken out by water main improvements, sewer main improvements, and fees are shown on each and come to \$1,085; then the roadways for a total of \$65,000 and impose a fee on that, and the total fee becomes \$2,845 in the example. Purcell said if you took the whole \$100,000 project and charged the approved fees, it would only be \$2,460. He said he felt the implementation of the ordinance should be addressed because that was not his understanding of Councils action. Purcell asked for comment on the grand fathering question and on how the fees would be computed and implemented.

Williams said he also received a call from Mr. Ledford and assumed that once the project had been started, the fee would not be imposed on that part. He said he was not talking about phase one of an overall plan; if phase one had already been started, the fee should not be assessed on phase one, but on phase two, which may occur later in the future, there should be fees charged, but fees should not be charged on projects that were already started.

Purcell said he did not feel that Mr. Ledford should be charged the fees because he had already started moving dirt, and that it would be the same for anyone else in that category. He said the second question is how this will be implemented for anyone who starts work after July 1, there would be no question about them not being grand fathered in, but they may be charged piece meal.

Jerry Ihler, Public Works/Engineering Director, said they had a problem with implementation in charging a fee when a section of work is to be inspected. He said when a developer begins a new subdivision, they do not have to have a grading permit but can begin moving earth on their own, private property without contacting the City or receiving an inspection. Ihler said since no grading permit was required, the decision was that the inspection fee would be charged when the inspection was called for; the developer would provide the information from their consulting engineer showing costs of various improvements and pay the fee on that basis. He said the determination was to allow the developer to pay it all at once or break it up into pieces; the reason for that is some will grade and do cutting for street work but not continue and perhaps sell the land or it will be three or four years before any additional work is done so it would not be appropriate to hold their money for three or four years.

Ihler said staff would prefer that the fee be paid all at once to avoid problems with tracking payments over perhaps a long period of time. He said the ordinance was written to allow breaking up the payments because work may be started but all work may not be completed for a long period of time. Shanklin asked if the amount required is more if it is broken up. Purcell said the example shows if it is broken up, the total fees would be \$3,275; if it was paid all at once, the total fees would be \$2,460, on a \$100,000 project, and the intent was not to have them pay more in fees. Ihler said that was the example, and it would be easier to track if it were paid at one time.

Williams said Ledford expressed a concern over his putting pipe in the ground and being told he would not be able to receive an inspection until he paid the fees for this segment. He said he liked the idea of paying all of it up-front to save the contractors money and to save staff time in tracking payments and making computations. Williams said if Ledford had already started work on the project, he should be grand fathered in.

Maples asked how many had already commenced work. Ihler said there is a question as to what constitutes starting work; contractors can move earth and never call for an inspection because no grading permit is required. Maples said the letter states that all inspection fees will be paid to the City prior to the commencement of construction of any public works improvement; from the day the ordinance was passed, that is the day we should go from to implement the fee. Ihler said he recalled that Wyatt Acres Part 11 had started some construction and had in fact put in all of their infrastructure with the exception of finishing a small part of the street work, and Keegan Ledford was the only other one and he had done some grading work and started cutting some of the streets but had not done any concrete or rock base or any base work but had started his grading work. Williams said he understood Ledford had attended a pre-construction meeting with staff to identify the scope. Ihler said he was not aware of it although that could have happened.

Purcell asked if the appropriate point for payment to be made for the fees was when the construction plat was approved. Ihler said contractors should bring in what the fees would be at that time, but the thought was they would pay the fee prior to the actual construction because it may be five years away. Purcell said he thought there was a point when the developer would say what he planned to do but there was not a cost estimate and Ihler said they receive approval of construction plats. Purcell asked if that is the point they would estimate the cost and we would collect the fees. Ihler said they could. Williams asked if there would be a difference in dollars between the construction plat and the record plat. Ihler said yes, because the construction plat is an estimate. Ihler said the other alternative would be at the record plat phase, or for improvements not associated with subdivisions, at the time City Council accepts dedication of the improvements installed by the developer; actual costs would be known at that time and all inspections would have taken place.

Williams asked Ihler if he would prefer to have it at construction plat or record plat stage. Ihler said a condition of the construction plat could be that fees are paid prior to construction so those are known up front, but it would be better to have them paid all at once. Williams said if there are any changes in the record plat. Ihler said it would become a matter of adjusting the payment.

Purcell said he would move to collect all fees at the time of the construction plat based on the estimate of cost and to grandfather in Keegan Ledford and he not be required to pay the fees since he had already worked on the project. Shanklin said that should apply to any others. Purcell said he did not know the others but agreed it should apply equally. Schumpert suggested staff be allowed to develop an ordinance for the next meeting to allow that to occur. Purcell agreed.

Ihler said there are construction plats that have been approved; however, absolutely no construction has taken place. He asked if fees should be charged on them, since it is an inspection fee and not a construction plat fee. Schumpert said he understood the time of the construction plat would be the defining factor, and if the construction plat has already been approved, it would be grand fathered; if the construction plat has not been approved, the fee will be collected. Ihler said he would not be in favor of that since this was intended to be an inspection fee. Williams said the City was not collecting any fees at all before this. Maples asked if Ledford was being held up as far as inspections and Ihler said no.

Warren said a person might have a construction plat for a full subdivision, but may be planning on developing only a small section to begin with. He asked if fees would be collected for the entire plat. Schumpert said the fee would be collected on whatever is shown in the construction plat. Warren said it should be only on the section being done. Williams said a contractor would not bring in a multi-phase construction plat; they may bring in an overall concept, but would bring in phase one only. Ihler said several construction plats have been submitted in the past for an entire, large area, but they do not construct all at once but do it in phases. Schumpert said that was one reason for collecting the fee at the time of inspection. Williams suggested contact be made with developers to see how this would best fit their needs also.

Purcell said he understood this was for inspection but that it would be more logical to collect the fees at record plat when costs are known. Ihler agreed and said no fees would be collected from the three or four who are now in construction. Schumpert asked if the construction plat had been approved, they would be grand fathered and Williams said yes. Warren said some may have filed construction plats as good ideas but have not even moved any

dirt. Williams said it is not a big block of money. Schumpert said the list of those who had filed construction plats or started work would be returned with the item for consideration.

14. Consider authorizing painting of a mural on City Hall. EXHIBITS: LETTER FROM MR. WILLIAM EASLEY WITH SKETCH; PRESS CLIPPINGS AND LETTERS OF REFERENCE ON FILE IN CITY MANAGER'S OFFICE.

Schumpert said the work would be done as a community service and sponsored by AmQuest Bank, Fitch Industrial, and E-Z Go Foods, at no cost to the City. Proposal is to paint a mural depicting likenesses of three to five people who have made a significant historical contribution to the area. Location discussed was above the south City Hall entrance, and whether it would be a historical event, such as the land run, or persons.

Green said she thought the cost would be greater if it were not persons. Schumpert said he would have to do a background for the people to be on but that he did not know.

Sadler said it would be difficult to determine the people to include. Warren agreed and said a person or group would be left out. Williams asked how long the mural would last, pointing out that at some time there would be a cost to the community for maintenance. Schumpert agreed. Warren said he would not have a problem with having the land run shown. Schumpert said that could be discussed with the artist. Sadler said art students might be able to maintain it in the future.

Bill Baker, Assistant City Manager, said the artist stated he used a high quality paint guaranteed for 50 years. He said if a mural is done of a scene, a cost estimate will be required and a determination of whether the sponsors would cover it. Baker said the artist will have to have a picture or model to go by, and he could do either, but the cost of a scene would be greater. Schumpert said another alternative would be not to consider it and Beller suggested that be considered. Beller said the sponsors will desire recognition. Maples said information shows that the sponsors names will appear on the wall in a tasteful size.

Mayor Marley said names of several people had already been recommended to be in the mural. Those names were Geronimo, Quanah Parker, Mattie Beal, Ned Shepler, Jesse Davenport, General Lawton, Spec Sanders, Candy Earley, and J.C. Kennedy. Other names may be submitted. Sadler suggested the Museum could help provide a picture that could be used for the artist to estimate cost.

The issue will be considered further when the cost of a mural of a scene is determined.

#### CONSENT AGENDA:

15. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claims over \$400.00: Bill E. Manuel and Katherine Williams; Frank and Marie Hetherington; Patricia Robinson; and Christina Thomas. EXHIBITS: LEGAL OPINIONS/ RECOMMENDATIONS; 3 RESOLUTIONS (ON FILE IN CITY CLERK'S OFFICE). Robinson: \$25.00 (Claim of Christina Thomas was deleted from consideration.)

(Title only) RESOLUTION NO. 97-98

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST BILL E. MANUEL AND KATHERINE WILLIAMS IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF SEVEN HUNDRED SIXTY-FOUR DOLLARS AND 10/100S (\$764.10).

(Title only) RESOLUTION NO. 97-99

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST FRANKLIN L. AND MARIE HETHERINGTON IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF FIVE THOUSAND FIVE HUNDRED DOLLARS (\$5,500.00)

ITEMS 16, 17 AND 18 WERE CONSIDERED SEPARATELY AS SHOWN BELOW.

19. Consider approving Change Order No. 1 assessing liquidated damages, accepting the 1996 Waterline Replacement Project 96-14 as constructed by Air Equipment, Inc. and placing the Maintenance Bond into effect. EXHIBITS: LOCATION MAP. Action: Approval of item. Liquidated damages are \$10,500.00.

ITEMS 20, 21 AND 22 WERE CONSIDERED SEPARATELY AS SHOWN BELOW.

23. Consider entering into an agreement and approving the transfer of funds for Medical Transportation Services. EXHIBITS: AGREEMENT (ON FILE IN CITY CLERK'S OFFICE). Action: Award agreement for

transportation services to Great Plains Improvement Foundation, Lawton, Oklahoma, and authorize the transfer of \$8,413.00 from the CDBG Contingency Fund, and authorize the Mayor and City Clerk to execute the agreement.

24. Consider an agreement between the City of Lawton and Oklahoma City University to allow the University to conduct classes in the Police Department's Training room. EXHIBITS: LEASE AGREEMENT (ON FILE WITH THE CITY CLERK). Action: Approval of item.

25. Consider an agreement with the Lawton Urban Renewal Authority (LURA) for the ground maintenance of properties owned by the Authority. EXHIBITS: PROPOSED AGREEMENT. Action: Approval of item.

26. Consider accepting a sewer main extension for public dedication, two utility easements, and a maintenance bond for the improvement constructed at approximately 6302 SW Lee Boulevard. EXHIBITS: LOCATION MAP; EASEMENTS AND MAINTENANCE BOND (ON FILE IN CITY CLERK'S OFFICE). Action: Approval of item.

27. Ratify action of Lawton Water Authority on Amendment No. 5 to the Raw Water Purchase Agreement with Ramon John, and authorize the Mayor and City Clerk to execute the amendment. EXHIBITS: AMENDMENT NO. 5 (SEE WATER AUTHORITY AGENDA). Action: Approval of item.

28. Consider entering no objection to a permanent closure of a 2 feet by 50 feet right of way adjacent to 114 NW Arlington and authorize the City Attorney to enter no objection to the closure in district court. EXHIBITS: NONE. Action: Approval of item.

ITEM 29 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

30. Consider entering into a contract with Mr. Bobby Dayton for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. EXHIBITS: CONTRACT ON FILE IN CITY CLERK'S OFFICE. Action: Approval of item.

31. Consider applying for a grant to the Oklahoma Foundation for the Humanities and authorize execution of the grant application. EXHIBITS: GRANT APPLICATION; SAMPLE GRANT AGREEMENT; CERTIFICATIONS WITH EXPLANATIONS. Action: Approval of item.

32. Consider ratifying the actions of the City Manager in the termination of demolition contract (DEM97-009) with Ranco Enterprises. EXHIBITS: LETTER TO RANCO ENTERPRISES. Action: Ratify the actions taken by the City Manager in the termination of the Demolition Contract with Ranco Enterprises for 308 SE Skyline Circle for the convenience of the City.

33. Consider awarding contract for demolition of 2101 SW Douglas Avenue (a single family mobile home residence). EXHIBITS: VENDOR'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Forney Enterprises, Inc., and authorize execution.

34. Consider awarding contract for demolition of 1806 SW Douglas Avenue (main structure and storage shed). EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Forney Enterprises, Inc., and authorize execution.

35. Consider awarding contract for soil. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Penland Topsoil, and authorize execution.

36. Consider awarding contract for 3' fluorescent lamps. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Voss Lighting, and authorize execution.

37. Consider awarding contract for validation printer. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Telpar, Inc., and authorize execution.

38. Consider awarding contract for directional boring machine. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Sooner Equipment Company, Inc., d.b.a. Ditch Witch of Oklahoma, and authorize execution.

39. Consider awarding contract for technical support for International Festival. EXHIBITS: VENDORS'S MAILING LIST, PROPOSAL TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Journey Productions and authorize execution.

40. Consider awarding contract for Lawton Arts & Entertainment Magazine. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to Colorgraphics "The Print Shop" and authorize execution.

41. Consider awarding contract for asphalt street material. EXHIBITS: VENDORS'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Award contract to H.G Jenkins Construction, Inc., and authorize execution.

42. Consider awarding contract for life insurance. EXHIBITS: VENDORS'S MAILING LIST, RATE COMPARISONS OF RESPONDING VENDORS AND DEPARTMENT RECOMMENDATION. Action: Award contract to Canada Life and authorize execution.

43. Consider extending contract for dairy products. EXHIBITS: VENDOR'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Extend contract with Hiland Dairy Foods Company to 9/30/98 at same terms and authorize execution.

44. Consider extending contract for repair and replacement of auto glass. EXHIBITS: VENDOR'S MAILING LIST, BID TABULATION AND DEPARTMENT RECOMMENDATION. Action: Extend contract with Gene Burk Auto Glass Specialists, Inc. to 9/30/98 at same terms and authorize execution.

45. Mayors Appointments. EXHIBITS: NONE.

PUBLIC LIBRARY BOARD: Carol Sinnreich, Term exp. 5/31/99

LAWTON HOUSING AUTHORITY: Cynthia Johnson, Term exp. 8/24/2000

LAWTON URBAN RENEWAL AUTHORITY:

Dr. Ernest Sheppard, Term exp. 7/31/2000

Paul Fisher, Term exp. 7/31/2000

McMAHON AUDITORIUM AUTHORITY: Ray Polk, Term exp. 6/30/2000

ARTS & HUMANITIES COUNCIL: Maxine Donaldson, Term exp. 6/30/2000

ENGINEER SELECTION COMMITTEE: Council member Jeff Sadler

46. Consider approval of payroll for the period of August 11 through August 24, 1997. EXHIBITS: NONE.

Separate consideration was requested for Items 16, 17, 18, 20, 21, 22 and 29. Cruz asked that the Christina Thomas claim be deleted from the agenda for further consideration and that claim was deleted.

MOVED by Williams, SECOND by Green, to approve the Consent Agenda items as recommended with the exception of the Thomas claim in Item 15, and Items 16, 17, 18, 20, 21, 22 and 29. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

16. Consider approving Amendment No. 1 to the agreement with ZIA Corporation for engineering services for the Underground Storage Tank Project to add the removal of two underground tanks located at School House Slough and three tanks at the Public Works Yard. EXHIBITS: PROPOSED AMENDMENT NO. 1 TO AGREEMENT; ZIA CORPORATION PROPOSAL AND SCOPE OF SERVICES (ON FILE IN THE ENGINEERING OFFICE); SUMMARY OF FEE SCHEDULE.

Shanklin said engineering fees are almost 20%. He asked what would be done for this amount and if they were being paid \$57,000 to remove the tanks. Ihler said \$57,000 was the previous contract on removal of five tanks at various locations; the engineer must prepare a preliminary report on each site before tank removal can take place and submit it to the Oklahoma Corporation Commission; plans and specifications for removal were also prepared. Ihler said the tanks at the police station and at the Lake Lawtonka ranger station required sampling and testing due to soil contamination, which required a report on how the contamination would be remediated.

Shanklin asked if the costs included removing the tanks or if it is just engineering fees. Ihler said engineering fees only. Mayor Marley said the \$57,000 had already been spent. Schumpert said cost for this will be \$10,995 for this contract amendment. Shanklin said installation of new tanks is \$66,000, so it is 16-17% for engineering services, which is a lot of money. Ihler said engineering costs for removal and installation of tanks at the Public Works yard was \$7,490, which includes the reports for the Oklahoma Corporation Commission.

MOVED by Shanklin, SECOND by Sadler, to approve the item. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

17. Consider denying requests for installation of traffic control devices at specified locations. EXHIBITS: EXCERPTS FROM DRAFT MINUTES OF TRAFFIC COMMISSION MEETING OF JULY 24, 1997.

Beller said he had a request in for four-way stop signs at the intersection of Mickelgate and Kingswood. He said four members attended the Traffic Commission meeting and asked how many members there were. Marsha Hinds, Traffic Engineer, said there are seven members. Beller asked if it was normal that only four attend. Hinds said four members are a quorum and that attendance had been down due to summer vacations.

Beller said the request for the stop signs came from residents of the area, as did the 67th Street request. He said



there have been no traffic accidents at this location, whereas there had been two serious accidents at 67th Street. Beller asked if the studies are done at different hours of the day, because this is near a park and in the late afternoon and early evening, there are many young people here and cars are parked on either side of the street. He said the neighbors felt stop signs would help the situation.

Hinds said the policy is to recommendation installation of stop or yield signs to assign the right of way, so they examine sight distance. She said they measure the intersection and drive it, and the tables they follow give certain distances where you can see other cars coming at you. Hinds said at this location, all that is required by national standards is yield signs. She said they do not follow a policy of using stop signs to control speed.

Beller said the sight distance is obscured when vehicles are parked on either side of the street at 5 to 6:30 p.m. when kids are playing soccer and baseball in the park area. He said he was wondering whether that was considered and obviously it was not.

MOVED by Beller, SECOND by Williams, to approve the item. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

18. Consider a resolution authorizing the installation and/or removal of traffic control devices at the specified locations. EXHIBITS: RESOLUTION NO. 97-100; EXCERPTS FROM MINUTES OF TRAFFIC COMMISSION MEETING OF JULY 24, 1997.

Williams said portion 13 of this is to install stop signs on the north and south directions of Laird Avenue at NW Cherry, and stop ahead signs on southbound. He said he had not been contacted concerning this item, but used the road quite often and there are five approaches with three of the directions being stopped. Williams said the stop signs seem to have been recommended due to a sight obstruction, although there have been no accidents for a year, and a statement as included that the hedge was in existence prior to the ordinance, which he assumed had been identified by Code Enforcement. He said he personally did not want stop signs on Laird.

Bob Ross requested permission to speak and the Council agreed. Ross stated he lives at 1312 Cherry, and the problem is not the traffic that stays on Laird because you can roll out past the stop sign and see past the hedge, but if you roll out far enough to see traffic coming southbound on Laird, you are in the path of a car that is coming down Laird and turning onto 13th Street. He related instances of very rude behavior by other motorists to he and his wife due to problems at this intersection and said it is a danger. Ross said letters were written to Mr. Drewry asking about the hedge and no response was received; staff position is the City cannot do anything about the hedge. He said a much better solution would be to have the hedge cut down than to have the stop signs installed. Traffic has increased due to people cutting through Fields & Dunning.

Williams said the house in question is for sale and the best situation would be to lower or remove the hedge, and not have the signs. Maples said the Council had considered stop signs in Fields & Dunning in the past which escalated into a large number of signs. Shanklin said if the hedge is in the easement, it has to come down if it is a sight obstruction. Cruz said that was true under the present code. Shanklin asked if State law applied and Cruz said State law does not prohibit obstruction of easements, but the code does. Warren suggested the signs be put in until the house is sold and the new owner be asked to remove the obstruction. Maples suggested the current owner be contacted by City staff. Cruz said he believed the grand fathering of the hedge dealt with the 45 degree sight triangle, and nothing to do with the easement. Shanklin asked if a person can have an obstruction on his property that could cause an accident and be free and clear. Cruz said no. Mayor Marley said the City can have it removed.

Ross said they had spent over a year trying to get something out of the Drewry family through calls and letters, and nothing has helped. He said staff stated nothing could be done because the hedge was there before the code was passed. Ross suggested the signs be installed until the hedge can be dealt with.

MOVED by Williams, SECOND by Shanklin, to adopt the Traffic Commissions recommendation for the stop and stop ahead signs on Laird, north and south, and also to direct staff to identify if this hedge is in the easement, if it is, send a notice to the homeowner to do something about it to remove that sight obstruction, and to adopt the resolution. AYE: Shanklin, Beller, Warren, Williams, Sadler, Purcell. NAY: Green, Maples. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-100

A RESOLUTION AUTHORIZING THE INSTALLATION OF TRAFFIC CONTROL DEVICES AT A CERTAIN DESIGNATED LOCATION WITHIN THE CITY OF LAWTON, OKLAHOMA. (14 locations; refer to resolution)

20. Consider acknowledging completion of asphalt overlay of NW 3rd Street and the Elmer Thomas Park Parking Lot Project constructed by the City of Lawton. EXHIBITS: MEMORANDUM DATED AUGUST 4, 1997 FROM STREET DIVISION SUPERINTENDENT.

Williams said the park entrance and parking lot are excellent work and staff should be commended for this effort.

MOVED by Williams, SECOND by Purcell, to acknowledge completion of the project. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

21. Consider adopting a resolution authorizing the Mayor and City Clerk to execute a project agreement with the Oklahoma Department of Transportation (ODOT) for the Gore Boulevard Transportation Enhancement Project. EXHIBITS: RESOLUTION 97- 101 ; PROJECT HISTORY AND LOCATION MAP; PROJECT AGREEMENT (ON FILE IN ENGINEERING OFFICE).

Williams said the Cache Road Beautification Project was great, and this will be similar. He said he wanted the project to be noticed. Green said they had been waiting for two years to get the project and were glad to see it.

MOVED by Williams, SECOND by Maples, to adopt Resolution No. 97-101 and authorize the Mayor and City Clerk to execute the project agreement for the City of Lawton, ODOT, for the Gore Boulevard Enhancement Project. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-101

A RESOLUTION WHEREBY THE CITY COUNCIL OF LAWTON, OKLAHOMA, AUTHORIZES THE EXECUTION OF A PROJECT AGREEMENT BETWEEN THE CITY OF LAWTON, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR THE GORE BOULEVARD TRANSPORTATION ENHANCEMENT PROJECT UNDER PLANS AND SPECIFICATIONS FOR FEDERAL AID PROJECT NO. STP-16E(319)EH IN ACCORDANCE WITH THE TERMS AND TENOR OF 69 O.S. 1991, SECTIONS 1205, 1206.

22. Consider entering into an agreement with the Federal Department of Commerce's Minority Businesses Development Agency for the establishment of a Minority Business Opportunity Center and authorize execution of the agreement. EXHIBITS: AGREEMENT (ON FILE IN CITY CLERK'S OFFICE).

Williams said this has been in the works for a long time and many people had been involved. Mayor Marley said he appreciated the work of the Northside Chamber in this matter.

MOVED by Williams, SECOND by Purcell, to authorize execution of the agreement. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

29. Consider awarding a contract for professional architectural services for the General Facilities Project 97-13. EXHIBITS: SCOPE OF SERVICES FROM RFP; CONTRACT ON FILE IN CITY CLERK'S OFFICE. Action: Award contract to GBA Architects.

Schumpert requested permission to add the City Hall south entrance improvements to this contract. Mayor Marley commended staff for the work on the flowers.

MOVED by Purcell, SECOND by Maples, to award the contract to GBA Architects, as recommended, with the addition of the City Hall south entrance project. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

#### BUSINESS ITEMS:

47. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a damage claim filed by David A. Nottingham, by and through his attorney, Michael Corrales. EXHIBITS: NONE.

48. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of negotiations for a Collective Bargaining Agreement for 1997-1998 between the Police Union, IUPA, Local 24, and the City of Lawton, no action will be taken in open session. EXHIBITS: NONE.

#### AMENDED - 8/8/97 - 11:30 A.M.

49. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the Interest Arbitration Board's award on the contract terms between the City of Lawton and IAFF, Local 1882, in FMCS Case #97-16312 and, in open session consider adopting a resolution accepting or rejecting the award, and if rejected, adopt a resolution calling a special election and setting the ballot title, or take other appropriate actions. EXHIBITS: RESOLUTION NO. 97- \_ (TO BE DISTRIBUTED IN EXECUTIVE SESSION).

#### ADDENDUM:

1. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled Michael Wightman v. City of Lawton, CJ-95-46, in the District Court of Comanche County, and, if appropriate, take action in open session. EXHIBITS: NONE.

MOVED by Warren, SECOND by Green, to convene in executive session as shown on the agenda. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 9:35 p.m. and reconvened in regular, open session at 10:40 p.m. with roll call reflecting all members present.

Cruz reported the Mayor and Council met in executive session to consider the four items listed on the agenda. He said regarding the claim of David Nottingham, no action is needed in open session.

Cruz said on the addendum regarding the Wightman case, he requested Council adopt a motion to accept the jury award and not appeal the matter.

MOVED by Shanklin, SECOND by Williams, to accept the jury award and not appeal the matter on the Wightman case. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Sadler. NAY: None. MOTION CARRIED.

Cruz said on Item 48 relating to the status of negotiations between the City of Lawton and the police union, we informed the Mayor and Council that we tentatively have an agreement between the City and the police union; the police union will consider that and vote on it later on and the matter will be brought back to the Council, hopefully at the next meeting, for approval and ratification.

Cruz said on the matter relating to the arbitration award in FMCS 97-16312, he discussed with the Mayor and Council the arbitration award that was issued by the majority of the arbitrators. He said the Council should adopt a resolution either to accept the arbitration award or to reject the award and refer the matter to the vote of the people on October 14.

MOVED by Maples, SECOND by Williams, to adopt Resolution No. 97-102 accepting the arbitrators award.

SUBSTITUTE MOTION by Purcell, SECOND by Warren, to adopt Resolution No. 97-102 rejecting the award and adopt the resolution calling for a special election. AYE: Warren, Sadler, Purcell. NAY: Shanklin, Beller, Green, Maples, Williams. SUBSTITUTE MOTION FAILED.

VOTE ON MOTION: AYE: Beller, Green, Maples, Williams, Shanklin. NAY: Warren, Sadler, Purcell. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-102

A RESOLUTION ADOPTING THE AWARD OF THE ARBITRATION PANEL IN FMCS 97-16312 AS THE EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF LAWTON AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 1882, FOR THE FISCAL YEAR 1997-1998.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER. None.

There was no further business and the meeting adjourned at 10:45 p.m.